

PT 99-46

Tax Type: Property Tax

Issue: Charitable Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

OSF HEALTH CARE SYSTEM)		
Applicant)		
)	Docket #	95-57-87
v.)		
)	Parcel Index #(42)	21-02-176-006
THE DEPARTMENT OF REVENUE)		
OF THE STATE OF ILLINOIS)		

RECOMMENDATION FOR DISPOSITION

Appearances: Vance Parkhurst, Corporate Director of Legal Services for OSF Health Care System.

Synopsis:

The hearing in this matter was held at the Illinois Department Of Revenue, 101 W. Jefferson, Springfield, Illinois on November 10, 1998, to determine whether or not McLean County Parcel Index No. (42) 21-02-176-006 qualified for exemption during the 1995 assessment year.

Mr. Daniel P. O'Connell, in 1995 the Director of Property Management and Development of the St. Francis Medical Center for OSF Health Care System d/b/a St. Joseph Medical Center (hereinafter referred to as the "Applicant") was present and testified on behalf of the applicant.

The issues in this matter include, first, whether the applicant was the owner of the parcel during the 1995 assessment year; secondly, whether the applicant is a charitable organization; and lastly, whether 324 of the 475 parking spaces or 68.16% of the parking lot used in conjunction with the Eastland Medical Complex qualifies for exemption for the 1995 assessment

year.

Following the submission of all the evidence and a review of the record, it is determined that the applicant owned this parcel during all of the 1995 year. It is also determined that the applicant is a charitable organization. Finally, it is determined that 68.16% of the parking lot qualifies for exemption for 100% of the 1995 assessment year.

Findings of Fact:

1. The jurisdiction and position of the Department that a part of McLean County Parcel Index No. (42) 21-02-176-006 did not qualify for a property tax exemption for the 1995 assessment year was established by the admission into evidence of Dept. Ex. Nos. 1 through 6. (Tr. p. 15)

2. On June 5, 1996, the Department received a property tax exemption application from the McLean County Board of Review for Permanent Parcel Index No. (42) 21-02-176-006. The applicant had submitted the request, and the board recommended denial of the exemption for the 1995 assessment year. The Department assigned Docket No. 95-57-87 to the application. (Dept. Grp. Ex. No. 2)

3. On January 9, 1997, the Department granted in part and denied in part the requested exemption application finding that the 475 parking places were not in exempt use. (Dept. Ex. No. 3)

4. The applicant timely protested the denial of the exemption and requested a hearing in the matter. (Dept. Ex. No. 4)

5. The hearing held at the Department's offices in Springfield, Illinois, on November 10, 1998, was pursuant to that request. (Dept. Ex. No. 5)

6. The Sisters of the Third Order of St. Francis acquired the subject parcel by a warranty deed dated November 20, 1964. OSF stands for the Order of St. Francis. (Dept. Ex. No. 2 pp. 48-49; Tr. p. 39)

7. Located on the subject parcel is the Eastland Medical Plaza Complex of the St. Joseph Medical Center. The street address of the property is 1505 Eastland Drive, Bloomington,

Illinois. The complex is comprised of Eastland I Medical Office Building, Eastland II Medical Office Building, and the adjoining 475-space parking lot. (Dept. Ex. No. 2 p. 1; Applicant's Ex. No. 1; Tr. pp. 18-34)

8. According to the initial application, Eastland Medical Plaza Complex consists of 415,505 square feet. Eastland I Medical Office is a three-story building with a basement that contains 95,244 total square feet. Eastland II Medical Office is a two-story building with a basement that contains 56,768 total square feet. (Dept. Ex. No. 2 p. 1)

9. I take administrative notice of the fact that the Department in Docket No. 91-57-60 found that a division of McLean County Parcel Index No. 21-02-176-006 was 42.65% exempt and 57.35% was taxable. The applicant and the parcel at issue therein are also the applicant and parcel at issue herein. (Dept. Ex. No. 2 pp. 1, 14)

10. In 1994 an addition to the Eastland Medical Plaza Complex was substantially completed. The addition necessitated that the applicant file a new request for a property tax exemption. (Dept. Ex. No. 2 p. 67)

11. In response to a memoranda issued by the Department, the applicant submitted a revised application and documentation showing that the proper total square footage of Eastland Medical Complex is 364,070 square feet. Eastland I Medical Office is 91,432 square feet and Eastland II Medical Office contains 57,475 square feet. The total square footage of the buildings is 148,907 square feet. (Dept. Ex. No. 2 pp. 61-64, 76; Tr. p. 29)

12. I also take administrative notice of the fact that pursuant to Docket No. 95-57-87, the matter at issue herein, that the Department found that:

Eastland I Bldg. & a proportionate amount of land is 48.2% exempt and 51.8% taxable.

Eastland II Bldg. & a proportionate amount of land is 100% exempt. The 475 parking spaces are denied exemption. (Property not in exempt use) (Dept. Ex. No. 3)

13. The applicant requested a formal hearing with respect to the Department's decision regarding the denial of exemption of 324 parking spaces of the total 475 parking spaces. (Dept. Ex. No. 4; Tr. p. 35)

14. The applicant leases sections of the Eastland I Building for non-exempt uses. Included in the leases is a provision that “The Lessor further agrees to maintain the common areas, to provide a designated parking space for each physician tenant in the designated physician parking area, but in no case will more than one space per physician tenant be provided, and to list each physician occupant of the leased premises on the director of the building, such name to be designated by each physician tenant. Employees of the Tenant may be allowed to use parking lots maintained for Tenant’s employees. The Lessor further agrees to provide parking for patients and visitors.” (Dept. Grp. Ex. No. 2 pp.26, 39, 114, & 127; Tr. pp. 31-34)

15. The aggregate of the exempt versus not exempt use of Eastland I and Eastland II is that 68.16% is exempt and 31.84% is taxable. The 475 parking spaces are used by persons who frequent both Eastland I and Eastland II. (Dept. Ex. No. 2 pp. 57, 67; Applicant’s Ex. No. 2,3; Tr. pp. 21, 35-36)

16. The applicant does not identify land used or particular parking spaces in its leases to the non-exempt lessees. In the parking area at issue, there are areas designated as handicapped parking spaces and some designated spaces for hemodialysis patients. The parking area is used on a space available basis. (Dept. Ex. No. 2 p. 69; Tr. pp. 32-35)

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956) Whenever

doubt arises, it is to be resolved against exemption and in favor of taxation. People ex. rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1941). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967)

At issue is the exemption for parking areas found at 35 **ILCS** 200/15-125 which states:

Parking areas, not leased or used for profit, when used as a part of a use for which an exemption is provided by this Code and owned by any school district, non-profit hospital, school, or religious or charitable institution which meets the qualifications for exemption, are exempt.

The applicant acquired the subject parcel by a warranty deed in 1964. I therefore find that the applicant owned the subject parcel for the entire 1995 assessment year. The Department determined that the applicant qualified for exemption of 48.2% of Eastland Building I and 100% of Eastland Building II pursuant to Docket No. 95-57-87, the matter at issue herein. I therefore conclude that the Department has determined that the applicant used a portion of the parcel at issue for charitable purposes and is a charitable organization.

The matter to be decided is whether a portion of the parking lot should be granted an exemption. The argument of the applicant is that the Department determined that 68.16% of the medical complex buildings were granted an exemption and therefore 68.16% of the parking lot should also be exempt.

The facts in this case are very similar to the facts discussed in a recent decision of the Illinois Supreme Court, The Streeterville Corporation v. The Illinois Department of Revenue, Docket No. 86138 (filed July 1, 1999) (hereinafter referred to as Streeterville). In Streeterville, a parking garage owned by Streeterville Corp. contained 1,072 parking spaces. Both Northwestern Memorial Hospital and Streeterville Corp. are tax-exempt organizations. Streeterville Corp. offered discounts to Northwestern Hospital personnel who used the parking lot. The parties agreed that 74% of the garage was used by Northwestern Hospital personnel. The Supreme Court held that when an identifiable portion of the parking garage is used for exempt purposes, the applicant is entitled to an exemption for that portion of the property.

I therefore recommend that 68.16% or 324 of the total 475 parking spaces of the parking lot at issue be granted an exemption from real estate taxation for the 1995 assessment year. I also recommend that 31.84% or 151 parking spaces remain on the tax rolls and be assessed to the applicant, the owner thereof.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge
July 2, 1999